

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2016060441
v.	
BERKELEY UNIFIED SCHOOL DISTRICT,	
BERKELEY UNIFIED SCHOOL DISTRICT,	OAH Case No. 2016051058
v.	
PARENT ON BEHALF OF STUDENT.	ORDER GRANTING MOTION TO CONSOLIDATE

On May 23, 2016, the Berkeley Unified School District filed a Request for Due Process Hearing in OAH case number 2016051058 (District's Case), naming Student.

On June 6, 2016, Student filed a Request for Due Process Hearing in OAH Case No. 2016060441 (Student's Case), naming Berkeley.

On June 9, 2016 the parties filed a Stipulation and Request to Consolidate District's Case with Student's Case.

Consolidation

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH will generally consolidate matters that involve: a common question of law and/or fact; the same parties; and when consolidation of the matters furthers the interests of judicial economy by saving time or preventing inconsistent rulings. (See Gov. Code, § 11507.3, subd. (a) [administrative proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

Here, District's Case and Student's Case involve common questions of law and fact. District alleges that its triennial psychoeducational, academic, speech and language, and occupational therapy assessments were appropriate and therefore it should not be required to pay for independent educational assessments requested by Student. Student alleges that three of those assessments are flawed and inappropriate, and that the offer of placement and

services resulting from those assessments denied her a free appropriate public education. Both cases will therefore involve much of the same evidence and many of the same witnesses. Both parties desire consolidation. In addition, consolidation furthers the interests of judicial economy because it avoids the necessity of conducting two separate due process hearings and the possibility of inconsistent judgments. Accordingly, consolidation is granted.

ORDER

1. The parties' joint Request to Consolidate is granted.
2. All dates previously set in OAH Case Number 2016051054 (District's Case) are vacated.
3. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of the complaint in OAH Case Number 2016060441 (Student's Case).

IT IS SO ORDERED.

DATE: June 9, 2016

DocuSigned by:

Charles Marson

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CHARLES MARSON

Administrative Law Judge

Office of Administrative Hearings